

EXHIBIT

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accordance with the System Standards, may make adherence to the Business Plan impractical, and Manager shall be entitled to depart therefrom due to causes of the foregoing nature. Manager shall notify Owner if Manager anticipates that any major Deduction category (major line item such as General and Administrative) will increase by more than ten percent (10%) from the Business Plan or if the aggregate Deductions will increase by more than five percent (5%) from the Business Plan. Owner shall have the right to approve or disapprove such increase, which right shall be subject to the same terms and conditions as set forth for approval of the Business Plan in Section 4.08.A (it being understood that Owner shall have no greater approval or disapproval rights for any such change than those set forth for the Business Plan in Section 4.08.A). If and when any such proposed increase is approved, the Business Plan, shall be so amended, and shall be the Business Plan for the remainder of the Fiscal Year to which it relates.

4.09 Working Capital

Owner shall, from time to time during the Term, promptly, but no later than ten (10) days after written request by Manager, advance any additional funds (over and above those required pursuant to the Technical Services Agreement) necessary to maintain Working Capital at levels reasonably determined by Manager to be necessary to satisfy the needs of the Hotel as its operation may from time to time require in accordance with System Standards. If Owner does not fund such additional Working Capital amounts within such ten (10) day period, Manager shall have the right, at its option and without affecting Manager's other remedies under this Agreement, to either (or both) (i) withdraw an amount equal to the additional Working Capital funds requested by Manager from distributions of funds otherwise due to Owner, and/or (ii) lend to Owner such amount from Manager's own funds (which loan shall (x) bear interest at an annual rate equal to the Prime Rate plus three (3) percentage points, and (y) be repaid from distributions of funds otherwise due to Owner or, if not fully repaid prior to Termination, pursuant to the provisions of Section 11.11.D). All funds advanced for Working Capital pursuant to the preceding sentences of this Section 4.09 shall be utilized by Manager for the purposes described in this Agreement pursuant to cash management policies established for the Boutique System. Upon Termination, Manager shall, except as otherwise provided in this Agreement, return the outstanding balance of the Working Capital to Owner.

4.10 Fixed Asset Supplies

Owner shall, within thirty (30) days after request by Manager, provide funds that are necessary to increase the level of Fixed Asset Supplies to levels determined by Manager, in its good faith judgment, to be necessary to satisfy the needs of the Hotel as its operation may, from time to time, require in accordance with System Standards. The cost of Fixed Asset Supplies consumed in the operation of the Hotel shall constitute a Deduction. Fixed Asset Supplies shall remain the property of Owner during the Term and upon Termination (except for those Fixed Asset Supplies which are purchased by Manager pursuant to Section 11.11.E).



4.11 Real Estate and Personal Property Taxes

A. Except as specifically set forth in Section 4.11.B, all real estate and personal property taxes, levies, assessments and similar charges on or relating to the Hotel ("Impositions") during the Term shall be paid by Manager from Gross Revenues, unless (i) payment thereof is in good faith being contested and enforcement thereof is stayed, or (ii) available Gross Revenues are insufficient for the payment thereof. Any such payments shall be Deductions in determining Operating Profit. Owner shall, within ten (10) calendar days after receipt, furnish Manager with copies of official tax bills and assessments which it may receive with respect to the Hotel. Either Owner or Manager (in which case Owner agrees to sign the required applications and otherwise cooperate with Manager in expediting the matter) may initiate proceedings to contest any negotiations or proceedings with respect to any Imposition, and all reasonable costs of any such contest shall be paid from Gross Revenues and shall be a Deduction in determining Operating Profit. Manager shall, as part of its contest or negotiation of any Imposition, be entitled, on Owner's behalf, to waive any applicable statute of limitations in order to avoid paying the Imposition during the pendency of any proceedings or negotiations with applicable authorities.

B. The word "Impositions" as used in this Agreement shall not include the following, all of which shall be paid solely by Owner, not from Gross Revenues nor from the FF&E Reserve:

1. Any franchise, corporate, estate, inheritance, succession, capital levy or transfer tax imposed on Owner, or any income tax imposed on any income of Owner (including distributions to Owner pursuant to Article III hereof);
2. Special assessments (regardless of when due or whether they are paid as a lump sum or in installments over time) imposed because of facilities which are constructed by or on behalf of the assessing jurisdiction (for example, roads, sidewalks, sewers, culverts, etc.) which may or may not benefit the Hotel (regardless of whether or not they also benefit other buildings); or
3. "Impact fees" (regardless of when due or whether they are paid as a lump sum or in installments over time) which are required of Owner as a condition to the issuance of site plan approval, zoning variances or building permits.

ARTICLE V

REPAIRS, MAINTENANCE AND REPLACEMENTS

5.01 Repairs and Maintenance Costs Which Are Expensed

Manager shall maintain the Hotel in good repair and condition, and shall make or cause to be made such routine maintenance, repairs and minor alterations as it determines are necessary



for such purposes. The phrase "routine maintenance, repairs, and minor alterations" as used in this Section 5.01 shall include only those which are normally expensed under generally accepted accounting principles. The cost of such maintenance, repairs and alterations shall be paid from Gross Revenues (and not from the FF&E Reserve) and shall be treated as a Deduction.

5.02 FF&E Reserve

A. Manager shall establish a reserve account (the "FF&E Reserve"), in a bank or similar institution reasonably acceptable to both Manager and Owner, to cover the cost of:

1. Replacements, renewals and additions to the FF&E at the Hotel; and
2. Routine Capital Expenditures.

B. For each Accounting Period from the Opening Date to the expiration of the thirteenth (13th) full Accounting Period after the Opening Date, Manager shall transfer into the FF&E Reserve an amount equal to one percent (1%) of Gross Revenues for such period; for each Accounting Period from the beginning of the fourteenth (14th) full Accounting Period after the Opening Date to the expiration of the twenty-sixth (26th) full Accounting Period after the Opening Date, Manager shall transfer into the FF&E Reserve an amount equal to two percent (2%) of Gross Revenues for such period; for each Accounting Period from the beginning of the twenty-seventh (27th) full Accounting Period after the Opening Date to the expiration of the sixty-fifth (65th) full Accounting Period after the Opening Date, Manager shall transfer into the FF&E Reserve an amount equal to three percent (3%) of Gross Revenues for each such Accounting Period; for each Accounting Period from the beginning of the sixty-sixth (66th) full Accounting Period after the Opening Date to the expiration of the one hundred thirtieth (130th) full Accounting Period after the Opening Date, Manager shall transfer into the FF&E Reserve an amount equal to four percent (4%) of Gross Revenues for each such Accounting Period; commencing with the beginning of the one hundred thirty-first (131st) full Accounting Period after the Opening Date and for all Accounting Periods thereafter, subject to the provisions of Section 5.02.E, Manager shall transfer into the FF&E Reserve an amount equal to five percent (5%) of Gross Revenues for each such Accounting Period. Transfers into the FF&E Reserve shall be made at the time of each interim accounting described in Section 4.01 hereof. All amounts transferred into the FF&E Reserve pursuant to this Section 5.02.B shall be paid from Gross Revenues as Deductions.

C. 1. Manager shall prepare an annual estimate (the "FF&E Estimate") of the expenditures necessary for (1) replacements, renewals and additions to the FF&E of the Hotel, and (2) Routine Capital Expenditures, during the ensuing Fiscal Year and shall deliver the FF&E Estimate to Owner for its review and approval, at the same time as Manager submits the preliminary business plan described in Section 4.08.A. The FF&E Estimate shall also indicate the estimated time schedule for making such replacements, renewals, and additions and Routine Capital Expenditures. Owner shall have thirty (30) days after receipt of the applicable FF&E Estimate to review and approve such estimate and Manager shall make itself reasonably



available during such period to discuss the FF&E Estimate and respond to Owner's questions with respect thereto.

2. Owner acknowledges that, in connection with its right of approval over the FF&E Estimate, it is a requirement of this Agreement that the Hotel be maintained to System Standards, and that certain FF&E replacements and Routine Capital Expenditures occur at regular cycles for soft goods, case goods and Routine Capital Expenditures, which cycles are incorporated in Systems Standards. Accordingly, Owner agrees that it shall not be entitled to withhold its approval of an FF&E Estimate based on its objection to (i) any item related to a periodic soft or hard goods renovation made in accordance with established cycles for such renovations as provided for in System Standards; or (ii) any item required to keep the Hotel in accordance with System Standards.

3. If Owner provides written notice of its disapproval as set forth in Section 5.02.C(1), then in the ten (10) Business Day period following Manager's receipt of Owner's disapproval, the parties shall attempt to resolve in good faith the objections so specified by Owner. If one or more of such objections have not been resolved as of the end of such ten (10) Business Day period, any such matter may be referred by either party to the Expert panel for resolution in accordance with the provisions of Section 11.20.

D. In any Fiscal Year, Manager shall be entitled to make replacements, renewals and additions to the FF&E of the Hotel and Routine Capital Expenditures, that are authorized under the FF&E Estimate for such Fiscal Year (or that were previously authorized under the FF&E Estimate for a prior Fiscal Year) or which are otherwise authorized pursuant to Section 5.02.C.2., up to the balance in the FF&E Reserve. No expenditures will be made in excess of said balance without the approval of Owner. However, during each Fiscal Year, Manager shall also be authorized to take appropriate remedial action (including making any necessary expenditures on account of FF&E or Routine Capital Expenditures) outside of the FF&E Estimate without Owner's approval (but with notice to Owner as soon as reasonably possible in the event of any material expenditure) in the following circumstances: (i) if there is an emergency threatening the Hotel, or the life or property of its guests, invitees or employees; (ii) if such expenditures are necessary to satisfy a Legal Requirement in accordance with the time lines required by the Legal Requirement; or (iii) if the continuation of the given condition would subject Manager and/or Owner to civil or criminal liability. At the end of each Fiscal Year, any amounts remaining in the FF&E Reserve shall be carried forward to the next Fiscal Year. Proceeds from the sale of FF&E no longer necessary to the operation of the Hotel shall be added to the FF&E Reserve. The FF&E Reserve will be kept in an interest-bearing account, and any interest which accrues thereon shall be retained in the FF&E Reserve. Neither (1) proceeds from the disposition of FF&E, nor (2) interest which accrues on amounts held in the FF&E Reserve, shall (a) result in any reduction in the required transfers to the FF&E Reserve set forth in Section 5.02.B above, or (b) be included in Gross Revenues.

E. As the Hotel ages, the percentages of Gross Revenues that are set forth in Section 5.02.B may not be sufficient to keep the FF&E Reserve at the levels necessary to make the alterations, improvements, replacements, renewals, and additions to the FF&E of the Hotel, or to make the Routine Capital Expenditures, that are required to operate or maintain the Hotel in



accordance with the System Standards. If Manager reasonably believes that the funding of the FF&E Reserve (with respect to the following Fiscal Year or any subsequent Fiscal Year as specified) will not be adequate to operate or maintain the Hotel in accordance with System Standards, Manager shall so notify Owner. Owner shall have thirty (30) days after receipt of such notification to review and approve Manager's assessment and recommendations concerning the funding of the FF&E Reserve and, in the event Owner disapproves any portion of Manager's recommendations, Owner will provide Manager in writing with the specific reasons for its disapproval within such thirty (30) day period. Thereafter, in the twenty-five (25) day period following Manager's receipt of Owner's disapproval, the parties will attempt to resolve in good faith the objections so specified by Owner. In the event that one or more of such objections have not been resolved as of the end of such twenty-five (25) day period, any such matter may be referred by either party to the Expert panel for resolution in accordance with the provisions of Section 11.20. Pending a decision by the Expert panel, Manager may proceed with the implementation of any portion of its assessment and recommendations that is not subject to dispute.

With respect to increased fundings to which Owner does not object, or increased fundings to which it objected but the Expert determined were necessary, Owner shall elect in writing one of the following two (2) alternatives within thirty (30) days after receipt of Manager's notice or the Expert's decision, as appropriate:

1. to increase the annual percentage of FF&E Reserve fundings under Section 5.02.B to provide the additional funds required for the specified Fiscal Year(s), which additional FF&E Reserve fundings shall be treated as Deductions; or
2. to make a lump sum contribution to the FF&E Reserve in an amount necessary to increase the FF&E Reserve to a level sufficient to fund the items which necessitated Manager's request for additional FF&E Reserve fundings; such amount shall be fully repaid (without interest) to Owner from Gross Revenues in equal installments over the period of the next sixty-five (65) Accounting Periods, which installment payments shall be treated as Deductions.

If Owner fails to elect one of the above alternatives within such thirty (30) day period, Owner shall be deemed to have elected the alternative set forth in Section 5.02.E.1. If Owner elects the alternative set forth in Section 5.02.E.2 and fails to provide the additional funds required thereunder within (i) thirty (30) days after making such election where such election follows a determination by the Expert pursuant to the foregoing provisions, or (ii) sixty (60) days after Owner's receipt of Manager's request for such additional funding where such election does not follow a determination by the Expert, such failure shall constitute an Event of Default by Owner. In addition, the placing of any restrictions on the expenditure by Manager of funds from the FF&E Reserve other than as set forth in this Section 5.02 (including, without limitation, restrictions resulting from (a) any Litigation involving the Owner or the Hotel, or (b) a Foreclosure) shall constitute an Event of Default by Owner under Section 9.01.



5.03 Capital Expenditures

A. Manager shall prepare an annual estimate (the "Building Estimate") of all Capital Expenditures for the Hotel, which shall include, for informational purposes only, a five (5) year forecast estimating proposed Capital Expenditures over such period. Manager shall submit the Building Estimate to Owner for its approval at the same time as Manager submits the preliminary business plan described in Section 4.08.A. Manager shall not make any Capital Expenditures without the prior approval of Owner, except as otherwise permitted herein. Owner shall have thirty (30) days after receipt of such Building Estimate to review and approve such Building Estimate, it being agreed that Owner shall not withhold its approval with respect to Capital Expenditures as are required (i) to keep the Hotel in good condition and repair in accordance with System Standards, or (ii) otherwise required for the continued safe and orderly operation of the Hotel. In no event shall Owner be required to (a) make structural changes or any physical additions to the Hotel Improvements (including the building facade), or (b) make changes to the size of the guest rooms. In the event Owner disapproves any portion of such Building Estimate, Owner shall provide Manager in writing with the specific reasons for its disapproval within such thirty (30) day period. Thereafter, in the twenty-five (25) day period following Manager's receipt of Owner's disapproval, the parties shall attempt to resolve in good faith any objections so specified by Owner. In the event that one or more of such objections have not been resolved as of the end of such twenty-five (25) day period, any such matter may be referred by either party for resolution by the Expert panel in accordance with the provisions of Section 11.20. Pending a decision by the Expert panel, Manager may proceed with the implementation of any portion of such Building Estimate that is not subject to dispute. It shall be an Event of Default by Owner if Owner fails to provide funding for any Capital Expenditure required to be implemented by Owner hereunder, within sixty (60) days, or such longer reasonable period required by Owner to procure the funds, but not later than one hundred eighty (180) days after issuance of the building permit therefore if necessary.

B. Notwithstanding the provisions of Section 5.03.A, Manager shall be authorized to take appropriate remedial action (including making any necessary Capital Expenditures) without receiving Owner's prior approval in the following circumstances: (i) if there is an emergency threatening the Hotel, or the life or property of its guests, invitees or employees; (ii) if the Capital Expenditures are necessary to satisfy a Legal Requirement; or (iii) if the continuation of the given condition would subject Manager and/or Owner to civil or criminal liability. Manager shall cooperate with Owner in the pursuit of any such action and shall have the right to participate therein. Owner shall, upon written request by Manager, promptly reimburse all expenditures made by Manager pursuant to this Section 5.03.B.

C. The cost of all Capital Expenditures (including the expenses incurred by either Owner or Manager in connection with any civil or criminal proceeding described above) shall be borne solely by Owner, and shall not be paid from Gross Revenues or from the FF&E Reserve. The amount of Capital Expenditures funded by Owner pursuant to this Section 5.03 (excluding all costs related to the correction of errors, omissions or defects in the design, construction or renovation of the Hotel) shall be included in the calculation of Owner's Priority, as set forth in the definition of Owner's Priority.



5.04 Ownership of Replacements

All repairs, alterations, improvements, renewals or replacements made pursuant to this Article V, and all amounts kept in the FF&E Reserve, shall, except as otherwise provided in this Agreement, be the property of Owner.

5.05 Management of Hotel Renovation and Construction Projects

A. Owner shall have the right to manage any Hotel renovation or construction project that exceeds a total budgeted cost of Five Hundred Thousand Dollars (\$500,000), as adjusted by the GDP Deflator; provided, however, that (i) after the Opening Date, Marriott International Design & Construction Services, Inc. (and its successors and assigns) shall be allowed to bid on all such projects (other than the work required for the Flagging Renovation) (which bid may be as a Profit Transaction); (ii) prior to commencement of such project, Owner shall submit to the appropriate committee designated by Manager, for its approval, all project plans, drawings and specifications and shall ensure that the final plans, drawings and specifications pursuant to which such project is undertaken conform to those approved by such committee; (iii) all materials used in, and the quality of installation and finish with respect to, such project shall be equal to or better than those required by System Standards; (iv) the contractors, architects and other consultants utilized by Owner with respect to such project shall be fully insured and bonded to the reasonable satisfaction of Manager; (v) such project shall not be deemed completed until Manager, in its reasonable judgment, certifies that the project work conforms in all material respects with all project plans, drawings and specifications approved by Manager; and (vi) Owner shall (x) work cooperatively with Manager to minimize interruption to Hotel operations, and to the experience of the Hotel's guests, from such project, and (y) obtain Manager's approval prior to undertaking any activity with respect to such project that could affect the guest experience at the Hotel or Manager's operation and management of the Hotel. Any dispute between Owner and Manager pursuant to this Section 5.05 shall be resolved by a panel of Experts in accordance with Section 11.20.

B. Manager shall have the right to manage any Hotel renovation or construction project that has a total budgeted cost of Five Hundred Thousand Dollars (\$500,000) or less, as adjusted by the GDP Deflator, and shall have the right to contract with Marriott International Design & Construction Services, Inc. (and its successors and assigns) to perform the work related to any such project, provided that Owner shall be allowed to bid on all such projects and further provided that such contract will be subject to Section 1.12 and 1.13 hereof.



ARTICLE VI

INSURANCE

6.01 Property Insurance

A. Commencing with the Opening Date, Owner shall procure and maintain the following (or Manager shall procure and maintain the following if (i) Owner requests in writing, at least sixty (60) days prior to the Opening Date, that Manager procure and maintain the following, (ii) the Hotel satisfies the then-current insurability criteria under Manager's insurance program, and (iii) Manager approves such request, in its sole and absolute discretion):

1. Property insurance (and, to the extent applicable, builders risk insurance), including boiler and machinery coverage, on the Hotel building(s) and contents against loss or damage by risks generally covered by an "all risk of physical loss" form. Such coverage, to the extent available at commercially reasonable rates, terms and conditions, shall be for not less than one hundred percent (100%) of replacement cost thereof, less a reasonable deductible and subject to commercially reasonable sub-limits, and less excavation and foundation costs. Such coverage shall include (i) an agreed value provision, (ii) waiver of co-insurance, (iii) landscape improvements coverage in an amount equal to one hundred percent (100%) of the replacement value of the landscape improvements or Five Million Dollars (\$5,000,000), whichever is greater, and (iv) law and ordinance coverage in an amount equal to twenty-five percent (25%) of the replacement value or Five Million Dollars (\$5,000,000), whichever is greater.

2. Flood insurance, to the extent such coverage is excluded or sub-limited from the property insurance required under Section 6.01.A.1 and to the extent the Hotel is located in whole or in part within an area identified by the insurer as having a special flood hazard. Such coverage, to the extent available at commercially reasonable rates, terms and conditions, shall be for not less than twenty-five percent (25%) of the replacement cost value of the Hotel, in excess of the application of a reasonable deductible. In no event shall flood insurance coverage be less than the maximum amount available under the National Flood Insurance Program (or successor program) for such coverage.

3. Insurance for loss or damage caused by earth movement, to the extent such coverage is excluded from the property insurance required under Section 6.01.A.1 and to the extent the Hotel is located in an "earthquake prone zone" as determined by appropriate government authority or by the insurance industry. Such coverage, to the extent available at commercially reasonable rates, terms and conditions, shall be for not less than the probable maximum loss of the Hotel or the aggregate probable maximum loss if insured under a blanket program, less a reasonable deductible.

4. Terrorism insurance, to the extent such coverage is excluded or sub-limited from the property insurance required under Section 6.01.A.1. Such coverage, to the extent available at commercially reasonable rates, terms and conditions, shall be for not less than the replacement cost value of the Hotel, less a reasonable deductible.



5. Windstorm insurance, to the extent such coverage is excluded from the property insurance required under Section 6.01.A.1 and to the extent the Hotel is located in a "windstorm prone zone" as determined by an appropriate government authority or by the insurance industry. Such coverage, to the extent available at commercially reasonable rates, terms and conditions, shall be for not less than the probable maximum loss of the Hotel or the aggregate probable maximum loss if insured under a blanket program, less a reasonable deductible.

6. Business interruption insurance caused by any occurrence covered by the insurance described in Section 6.01.A.1 through Section 6.01.A.5. Such coverage, to the extent available at commercially reasonable rates, terms and conditions, shall include (i) not less than two (2) years' loss of profits, (ii) necessary continuing expenses, including ordinary payroll expenses covering a period of not less than ninety (90) days, (iii) if applicable, loss of rental income, (iv) an extended period of indemnity of not less than three hundred sixty-five (365) days, and (v) any amounts that would be payable to Manager in respect of its Management Fees or any other amounts payable to Manager under this Agreement if the loss had not occurred, and Manager hereby reserves the right to make a claim directly to the insurer for any such Management Fees or other amounts payable to Manager under this Agreement.

7. Such other property insurance as is customarily required by Manager at similar hotels.

B. 1. All insurance procured in accordance with Section 6.01.A shall be obtained from reputable insurance companies of recognized responsibility and financial standing reasonably acceptable to Manager. Any premiums and deductibles under said policies shall be subject to the reasonable approval of Manager. Such premiums and deductibles (net of any credits, rebates and discounts) shall be paid as Deductions in accordance with this Agreement.

2. If Owner procures the insurance described in Section 6.01.A, all policies of such insurance shall be carried in the name of Owner, with Manager as an additional insured. If Manager procures such insurance, all policies of such insurance shall be carried in the name of Manager, with Owner as an additional insured. Any property losses thereunder shall be payable to the respective parties as their interests may appear. The documentation with respect to each Mortgage shall contain provisions to the effect that proceeds of the insurance policies described in Section 6.01.A shall be available for repair and restoration of the Hotel, to the extent required pursuant to Section 7.01.

3. If Owner procures the insurance described in Section 6.01.A, Owner shall deliver to Manager (i) certificates of insurance for such insurance or, upon Manager's request, a certified copy of the policies so procured, and (ii) in the case of insurance policies about to expire, certificates with respect to renewal(s) thereof. All such certificates of insurance shall, to the extent obtainable, state that the insurance shall not be canceled, non-renewed or materially changed without at least thirty (30) days' prior written notice to the certificate holder.



4. Each of Owner and Manager hereby waives its rights of recovery and its insurer rights of subrogation from the other party or any of its Affiliates (and their respective directors, officers, shareholders, agents and employees) for loss or damage to the Hotel, and any resultant interruption of business regardless of the cause of such property or business interruption loss.

5. If (i) Owner is eligible to participate in Manager's property insurance program, (ii) Owner nevertheless elects to procure its own property insurance, and (iii) the costs of the premiums and/or deductibles for coverage under Owner's property insurance program to be paid as Deductions under Section 6.01 exceed the costs of the premiums and deductibles that would have been payable under Manager's property insurance program by more than ten percent (10%), then with respect to such excess amount Owner shall be solely responsible (i.e., such costs shall not be paid from Gross Revenues or treated as Deductions) for the amount by which such costs under Owner's program exceed such costs under Manager's program by more than ten percent (10%).

6. In the event Owner elects to have the Hotel participate in Manager's property insurance program and Manager approves such participation pursuant to Section 6.01.A, the Hotel shall participate in Manager's property insurance program until such time as either Owner or Manager shall provide written notice to the other of its intent to discontinue such participation in accordance with the following:

a. If Owner elects to remove the Hotel from Manager's property insurance program and to procure its own property insurance for the Hotel, Owner shall provide Manager written notice of such decision at least ninety (90) days prior to the next renewal date of coverage under Manager's property insurance program (which is currently April 1st of each calendar year). If Owner fails to timely provide such notice, but Owner nevertheless procures its own property insurance for the Hotel, Owner shall pay (from its own funds and not from Gross Revenues) to Manager an amount equal to ten percent (10%) of the annual premium under Manager's property insurance program to cover all fixed costs and expenses incurred by Manager for the placement of such property insurance. If Owner elects to exit Manager's property insurance program in the middle of a coverage year (i.e., prior to the end of a coverage year), (i) the premiums under Section 6.01.A.1 of Manager's property insurance program and Owner's replacement property insurance program will be prorated as of the date on which Manager receives and approves certificates of insurance evidencing Owner's replacement property insurance coverage and its compliance with the requirements of this Section 6.01, (ii) Owner shall pay to Manager the amount described in the immediately preceding sentence, and (iii) for all other policies under Section 6.01.A, the premium will be deemed fully earned and will not be prorated. If Owner elects to exit Manager's property insurance program pursuant to the foregoing provisions, Owner may subsequently seek to have the Hotel participate in Manager's property insurance program; however such participation shall be subject to the following requirements: (x) Owner requests in writing, at least sixty (60) days prior to the commencement of the proposed coverage year, that Manager procure and maintain the property insurance, (y) the Hotel satisfies the then-current insurability criteria under Manager's insurance program, and (z) Manager approves such request, in its sole and absolute discretion.



b. If Manager elects to remove the Hotel from Manager's property insurance program, Manager shall provide Owner written notice of such decision at least ninety (90) days prior to the next renewal date of coverage under Manager's property insurance program (which is currently April 1st of each calendar year). Following such notice, Owner shall proceed to procure insurance for the Hotel pursuant to this Section 6.01 effective as of the expiration date of the current coverage. Owner may subsequently seek to have the Hotel participate in Manager's property insurance program; however such participation shall be subject to the following requirements: (x) Owner requests in writing, at least sixty (60) days prior to the commencement of the proposed coverage year, that Manager procure and maintain the property insurance, (y) the Hotel satisfies the then-current insurability criteria under Manager's insurance program, and (z) Manager approves such request, in its sole and absolute discretion.

7. If Owner procures insurance for the Hotel pursuant to this Section 6.01, Manager shall pay to Owner, as a Deduction and at the same time that Manager makes interim payments to Owner pursuant to Section 4.01.A, the amount of all reasonable insurance premiums relating to such insurance in accordance with this Section 6.01 (including Section 6.01.B.5) (the amount of such payments, collectively, the "Property Insurance Premiums"). The interim amount of Property Insurance Premiums to be paid by Manager to Owner shall be calculated by prorating the full Fiscal Year budgeted amount (or the actual amount, if available) of such Property Insurance Premiums equally over thirteen (13) Accounting Periods. Owner shall, within five (5) days after Manager's request therefor, provide Manager with evidence (reasonably satisfactory to Manager) of Owner's payment of all premiums and the receipt of any credits, rebates and discounts under the insurance policies procured by Owner hereunder. Manager shall reconcile prior payments of the Property Insurance Premiums to Owner for each Fiscal Year with the actual amount of the Property Insurance Premiums for such Fiscal Year, and the parties shall make any necessary adjustments with respect thereto following Owner's receipt of each Accounting Period Statement and/or Annual Operating Statement, as applicable. The parties agree that Manager shall only be required to pay Property Insurance Premiums to the extent that Gross Revenues are available in accordance with this Agreement. Owner shall be solely responsible for paying all premiums under insurance policies procured by Owner, before any fine, penalty or interest is added thereto.

6.02 Operational Insurance

A. Commencing with the Opening Date and thereafter during the Term, Manager shall procure and maintain the following:

1. Commercial general liability insurance against claims for bodily injury, death and property damage occurring in conjunction with the operations of the Hotel, and automobile liability insurance on vehicles operated in conjunction with the Hotel, with a combined single limit for each occurrence of not less than One Hundred Million Dollars (\$100,000,000);



2. Workers' compensation coverage as may be required under applicable laws covering all of Manager's employees at the Hotel, and employer's liability insurance of not less than One Million Dollars (\$1,000,000) per accident/disease;

3. Fidelity bond coverage in an amount not less than Two Million Dollars (\$2,000,000) covering Manager's employees at the Hotel;

4. Employment practices liability insurance covering Manager's employees at the Hotel, to the extent available at commercially reasonable rates and terms, in an amount not less than One Million Dollars (\$1,000,000); and

5. Such other insurance in amounts as Manager, in its reasonable judgment, deems advisable for protection against claims, liabilities and losses arising out of or connected with the operation of the Hotel.

B. 1. The insurance procured pursuant to Section 6.02 may include "Insurance Retentions." Insurance Retentions shall mean the deductibles or risk retention levels; however, the Hotel's responsibility for such deductibles or risk retention levels shall be limited to the Hotel's per occurrence limit for any loss or reserve as established by Manager for the Hotel, which limit shall be the same as other similar hotels participating in the blanket insurance programs.

2. All insurance procured in accordance with Section 6.02.A shall be carried in the name of Manager. The insurance procured in accordance with Section 6.02.A.1 shall include Owner, and any Mortgagees specified by Owner, in writing, as additional insureds.

3. Manager, upon request, shall deliver to Owner certificates of insurance evidencing the insurance coverages procured in accordance with Section 6.02.A.1 (and the insurance described in Section 6.01.A, if Manager procures such insurance) and any renewals thereof. All such certificates of insurance shall, to the extent obtainable, state that the insurance shall not be canceled or materially reduced without at least thirty (30) days' prior written notice to the certificate holder.

4. All insurance premiums, costs and other expenses, including any Insurance Retentions, for insurance procured pursuant to this Section 6.02 shall be treated as Deductions. All charges under the blanket programs shall be allocated to the Hotel and other similar participating hotels on a reasonable basis. Any losses and associated costs and expenses that are uninsured shall be treated as a cost of insurance and shall also be treated as Deductions.

5. Upon Termination or upon a sale of the Hotel, a reserve in an amount determined by Manager based on loss projections, shall be established from Gross Revenues to cover the amount of any Insurance Retentions and all other costs and expenses that will eventually have to be paid by either Owner or Manager with respect to pending or contingent claims, including those that arise after Termination for causes arising during the Term. If Gross Revenues are insufficient to meet the requirements of such reserve, Owner shall deliver to

